IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Crl.MC.No. 2285 of 2007()

CC.201/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, ADIMALI

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PETITIONER: ACCUSED:

BALRAJ, AGED 32 YEARS,
S/O. PRATHAPAN, NIKARTHIL VEEDU,PATTANAKKADU KARA,
CHERTHALA VILLAGE, ALAPPUZHA DIST.

BY ADV. SRI.JOHN JUDE ISSAC

RESPONDENTS: STATE AND COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY DIRECTOR OF PUBLIC PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

2. M.N. RAVEENDRANATHAN, AGED 52 YEARS,
S/O. NARAYANAN, MADATHIKKUNNEL VEEDU,200 ACRE KARA
MANNAMKANDOM VILLAGE, DEVIKULAM TALUK.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2285 Of 2007

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Dated this the 17th day of July, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instrument Act. The case was filed as early as in 2004. The case has now reached the stage of final arguments. The petitioner has come before this Court with the grievance that he has been denied the opportunity to adduce defence evidence. He submits that he wants to examine himself under Section 315 Cr.P.C. He wants to examine one more person as witness on his side. When he had the opportunity of adducing defence evidence, the petitioner did not adduce evidence. Subsequently an application was filed before the learned Magistrate to permit the petitioner to examine himself and his witnesses. The learned Magistrate by the impugned order rejected the said prayer.

2. In the course of arguments before me, the learned counsel for the petitioner only prays that the petitioner may be given one more opportunity to examine the petitioner as also one witness by name Viji before the learned Magistrate.

3. The learned counsel for the petitioner submits that there shall be not even a days delay to examine those witnesses. The petitioner shall be present on the next date of posting along with the said witness and shall get ready to examine both of them on that day. Indulgent opportunity to examine the petitioner and the said witness may be granted, submits the learned counsel for the petitioner.

4. I do not find any gross irregularity or error in the impugned order. However, I am satisfied that in the interests of justice, the petitioner can be given one opportunity to examine himself and the said witness Viji as defence witnesses on his side. Appropriate condition can of course be imposed. In the nature of the relief that I propose to grant, I am satisfied that it is not necessary to wait for issue and return of notice to the respondent-complainant. This petition is, in these circumstances, allowed.

5. On the next date of posting, on condition that the petitioner pays an amount of Rs.250/- as cost to the complainant, the learned Magistrate shall permit the petitioner to examine himself and one witness Viji as defence witnesses. Such witnesses must be present/produced before the learned Magistrate on the next date of

posting.

6. Hand over a copy of this order to the learned counsel for the petitioner today itself. Notice of this order shall be given by the learned counsel for the petitioner to the learned counsel for the complainant also.

(R.BASANT, JUDGE)

sj